

REMARKS

These amendments and remarks are filed in response to the final Office Action dated May 10, 2009 and the telephone interview of July 27, 2010. For the following reasons this application should be allowed and the case passed to issue. No new matter is introduced by this amendment. The amendments to claims 1, 17-20, 23, and 24 are supported by the specification, including examples 1-(1) to 1-(6), 2-(1) to 2-(3), and 4-9.

Claims 1, 3-6, 8, 11-14, 16-20, 23, and 24 are pending in this application. Claims 1, 3-6, 8, 11-14, 16-20, 23, and 24 were rejected. Claims 1, 3, 17-20, 23, and 24 are amended in this response. Claims 2, 7, 9, 10, 15, 21, and 22 were previously canceled.

Interview Summary

Applicants gratefully acknowledge the courtesy of Examiner Moore and Supervisor Sample on July 27, 2010 in granting a telephone interview with the undersigned. During the interview, the undersigned proposed claim amendments and explained that the combination of Ishida et al., Furman, and Kaplan did not suggest the claimed fruit juice-containing food product. The Examiner maintained the claimed fruit juice-containing food product was obvious.

Objections to the Claims

Claim 3 was objected to because "acesulfam K" was misspelled.

In response to this objection, claim 3 has been amended to correctly spell acesulfame K.

Claim Rejections Under 35 U.S.C. § 103

Claims 1, 3-6, 8, 13, 14, and 17-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ishida et al. (US 6,570,010) in view of Furman (US 5,451,404). The Examiner found that Ishida et al. teach a beverage comprising lemon juice concentrate, liquid sugar (dextrose) base, flavor improving vanillyl-n-butyl ether (col. 9:36-49), and cool-feeling

and refreshing-feeling substances (col. 4:56-61). Furman is relied on for teaching refreshing-feeling menthol (col. 4:37) and cool-feeling carboxamide (col. 4:37).

Claims 11, 12, 16, 23, and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ishida et al. in view of Furman and further in view of Kaplan (US 2002/0182296). The Examiner acknowledged that Ishida et al. and Furman do not disclose a fruit juice containing a dairy product. The Examiner relied on Kaplan's teaching of carbonated milk products to conclude it would have been obvious to combine Kaplan with Ishida et al. and Furman to provide a dairy beverage, which is perceived to be a healthy alternative to soft drinks.

These rejections are traversed, and reconsideration and withdrawal thereof respectfully requested. The following is a comparison between the present invention as claimed and the cited prior art.

Ishida et al., Furman, and Kaplan, whether taken in combination, or taken alone, do not suggest the claimed fruit juice-containing food product, methods for reinforcing a flavor in a fruit juice-containing food products, methods for reinforcing a flavor in a fruit juice-containing beverages, and methods for reinforcing a flavor in a fruit juice-containing dairy product because the cited references do not suggest the unexpected results obtained by fruit juice-containing food products comprising the specific mixtures of menthol and the specifically claimed one or more cool feeling substances, as required by claims 1, 17-20, 23, and 24. The cited references do not suggest the unexpected improvements in the fruit juice-containing food products obtained by the claimed compositions and methods. As shown in the present specification, fruit juice-containing food products according to the present invention have an unexpectedly improved combination of light feeling in the mouth, continuation of light feeling, and heavy feeling of sweetness (see Table 3, Examples 1-(2) to 1-(6)), as compared to other fruit juice-containing food products (see

Table 3, Comparative Examples 1 to 4). In addition, embodiments of the present invention provide unexpectedly improved light feeling in the mouth and feelings in taste (see Tables 5-1 and 5-2, and Examples 2-(1) to 2-(4)), as compared to other fruit juice-containing food products (see Tables 5-1 and 5-2, Comparative Examples 5 and 6). Furthermore, as explained in Examples 4-9 of the present disclosure, the present invention provides a light feeling without heavy sweetness in both the taste at drinking and the aftertaste after drinking. In view of the unexpected improvement in light feeling in the mouth, continuation of light feeling, and heavy feeling of sweetness, the present fruit juice-containing food product, methods for reinforcing a flavor in fruit juice-containing food products, methods for reinforcing a flavor in fruit juice-containing beverages, and methods for reinforcing a flavor in a fruit juice-containing dairy product are not suggested by the cited prior art.

The dependent claims are allowable for at least the same reasons as independent claim 1, and further distinguish the claimed fruit juice-containing food product.

In view of the above remarks, Applicants submit that this application should be allowed and passed to issue. If there are any questions regarding this response or the application in general, a telephone call to the undersigned would be appreciated to expedite the prosecution of the application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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